

Office of the Secretary, Education

§ 5.53

(41 CFR parts 101–111), and the Records Control Schedules.

§ 5.19 Records of other departments and agencies.

Requests for records which originated in or concern matters which originated in another Department or Government agency may be forwarded to the Department or agency primarily concerned and the requester so notified.

Subpart C—Freedom of Information Officer

§ 5.32 Freedom of information officer.

The Freedom of Information Officer shall be responsible for determining whether records of the Department must be withheld from disclosure and shall have authority to deny requests for records of the Department.

Subpart D—Procedures for Requesting Access to Records

§ 5.51 Procedure.

(a) A request for any information or record may be made at any appropriate office of the Department.

(b) If a request is made at any office of the Department and the information or record is not located where the request is made, the requester shall be referred to the proper office, or if the request is put in writing it may be forwarded to the proper office.

(c) A request should reasonably identify the requested record by brief description. Requesters who have detailed information which would assist in identifying the records requested are urged to provide such information in order to expedite the handling of the request. Envelopes in which written requests are submitted should be clearly identified as a Freedom of Information request.

(d) Determination of whether records will be released or withheld will be made within 10 working days from date of receipt in the office having custody of the records. This time may be extended by written notice for no longer than an additional 10 working days, only in unusual circumstances. Unusual circumstances mean:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

If such extension is made, the requester will be notified in writing with an explanation of why the extension was necessary and the date on which a determination will be made.

§ 5.52 Copies of records.

Copies of available records shall be produced as promptly as possible upon receipt of the fee therefor. Copying service shall be limited to not more than two copies of any single page, except that additional copies may be made where administrative considerations permit. Records which are published or available for sale need not be copied.

§ 5.53 Denial of requests for records.

Written requests for inspection or copying of records shall be denied only by the Freedom of Information Officer. Denials of requests shall be in writing and shall contain the reasons for the denial and provide the requester with appropriate information on how to exercise the right of appeal under subpart G of this part. Such notification shall also set forth the names and titles or positions of each person responsible for the denial of such request if such person or persons is other than the Freedom of Information Officer.

Subpart E—Fees and Charges

SOURCE: 52 FR 32525, Aug. 27, 1987, unless otherwise noted.

§ 5.60

§ 5.60 Schedule of fees.

(a) Fees and charges are charged under this part as follows:

(1) *Search for records*—(i) *General*. Full search fees are charged for records requested by commercial use requesters. For records requested by representatives of the news media or educational or noncommercial scientific institutions whose purpose is scholarly or scientific research, no search fee is charged if the records requested are not for commercial use. For other requesters, if the records requested are not for commercial use, the first two hours of search time are provided without charge, except as limited in paragraph (a)(1)(iii) of this section. Search fees are recorded and assessed to the nearest quarter hour.

(ii) *Manual search*. The charge for a manual search is calculated by determining the search time to the nearest quarter hour and multiplying that figure by the sum of the basic rate of pay per hour of the employee conducting the search plus 16 percent of that rate.

(iii) *Computer search*. The charge for a computer search is calculated by determining the search time to the nearest quarter hour and multiplying that figure by the sum of the basic rate of pay per hour of the computer operator plus 16% of that rate plus \$287 per hour for computer operation. Two hours of search time on a computer search is deemed to have been spent if the cost of the search equals the equivalent of two hours of the computer operator's basic rate of pay per hour plus 16 percent of that rate.

(2) *Review of records*. Review fees are charged only for commercial use requests and only for the initial review. The review rate is calculated by determining the review time to the nearest quarter hour and multiplying that figure by the sum of the basic rate of pay per hour of the employee conducting the review plus 16% of that rate. If records requested under this part are stored elsewhere than the headquarters of the Department at Washington, DC, the mailing and handling costs of returning those records to the headquarters for review is added to the review costs.

(3) *Duplication of records*. No duplication fee is charged for the first 100

34 CFR Subtitle A (7–1–08 Edition)

pages, except for commercial use requests. Duplication charges for paper copy reproduction of documents on photocopy machines is \$0.10 per page.

(4) *Certification of records*. The charge for certifying records is \$5 per record certified.

(5) *Other*. If no specific fee has been established for a service, or the request for a service does not fall under one of the categories in paragraphs (a)(1)–(4) of this section due to the amount or type of service, the Secretary is authorized to establish an appropriate fee, based on direct costs on a case-by-case basis as provided in the FOIA.

(b) If the Secretary awards a contract for a search or duplication of records for a FOI request, the fees charged are the actual costs under the contract.

(c) Fees are not charged if the total amount of the fee is less than \$5. If the total amount of the fee is \$5, or more, applicable search and review costs are charged even if no records are located or disclosed. The Secretary does not refund fees paid for services actually rendered.

(d) If the FOI Officer reasonably believes that a requester or group of requesters acting in concert is attempting to break down a request into multiple requests for the purpose of avoiding fee assessment, those requests and fees are aggregated and charged accordingly.

§ 5.61 Notification of estimated fees.

If the estimated fees under this section total more than \$25, or more than the maximum amount specified in the request if that amount exceeds \$25, the requester is:

(a) Notified promptly of the amount of the estimated fee or that portion of the fee as can readily be estimated; and

(b) Offered the opportunity to reformulate the request.

§ 5.62 Advance payment of fees.

(a) If the estimated fee for processing a request exceeds \$250, the FOI Officer:

(1) Notifies the requester of the anticipated cost and obtains satisfactory assurance of full payment if the requester has a history of prompt payment of FOIA fees; or